

GEOFFREY A. HANSEN  
Acting Federal Public Defender  
SHAWN HALBERT  
Assistant Federal Public Defender  
19th Floor Federal Building  
450 Golden Gate Avenue  
San Francisco, CA 94102  
(415) 436-7700  
Counsel for Defendant

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

|                           |   |                                     |
|---------------------------|---|-------------------------------------|
| UNITED STATES OF AMERICA, | ) | No. CR-12-0090 RS                   |
|                           | ) | CR-12-0156 RS                       |
| Plaintiff,                | ) |                                     |
|                           | ) | STIPULATION AND <del>PROPOSED</del> |
| v.                        | ) | ORDER RE: COMPETENCY                |
|                           | ) | EXAMINATION AND CONTINUING          |
| JOSE ESCALERA-AGUILERA,   | ) | STATUS DATE FROM JULY 24, 2012 TO   |
| AKA Pablo Perez-Anguiano, | ) | AUGUST 28, 2012 AND EXCLUDING       |
|                           | ) | TIME UNDER 18 U.S.C. § 3161         |
| Defendant.                | ) |                                     |

**STIPULATION AND ~~PROPOSED~~ ORDER**

Pursuant to the stipulation of the parties, and in light of defense counsel's stated opinion that her client's ability to assist in his defense is impaired by mental or emotional conditions that may include depression, anxiety or post-traumatic stress disorder, IT IS HEREBY ORDERED that pursuant to Section 4241 and 4247 of Title 18 and Federal Rule of Criminal Procedure 12.2(c)( 1), at the earliest practicable time, the defendant shall be referred for a psychiatric or psychological examination and report, where the selected expert shall evaluate defendant and file a report with the Court addressing the issue of whether Mr. Jose Escalera-Aguilera (aka Pablo Perez-Anguiano) has a sufficient present ability to assist with his defense in light of mental or emotional conditions from which he may currently suffer, and what if any medication(s) may

1 assist Mr. Escalera-Aguilera in recovering from any condition he may have. Pursuant to the  
2 agreement of the parties and U.S. Pretrial Services, Pretrial Services shall coordinate the  
3 evaluation in consultation with the parties and the expert shall be compensated by the U.S.  
4 Attorney's Office.

5 IT IS FURTHER ORDERED that, pursuant to Rule 12.2(c)(4) of the Federal Rules of  
6 Criminal Procedure, neither any statement made by the defendant in the course of this  
7 examination, nor testimony by the expert based upon such statement, and no other fruits of the  
8 statement shall be admitted in evidence against the defendant in any criminal or civil proceeding  
9 except on an issue regarding mental condition on which the defendant has introduced evidence of  
10 incompetency or evidence requiring notice under Rule 12.2(a) or (b). The report shall not be  
11 made part of the public record and shall not be disclosed to anyone outside the parties in this case.

12 As such, the evaluation prepared shall be maintained under seal; the report and all  
13 statements made by defendant in the course of the evaluation shall not be used for any other  
14 purpose in the future without defendant's express consent. A finding by the court that the  
15 defendant is mentally competent to stand trial shall not prejudice the defendant in raising the issue  
16 of his insanity as a defense to the offense charged and shall not be admissible as evidence in a  
17 trial for the offense charged. 18 U.S.C. § 4241(f).

18 Pursuant to 18 U.S.C. § 3161(h)(1)(A), the period of time during until entry of an order  
19 finding defendant competent is EXCLUDED for purposes of calculating the defendant's speedy  
20 trial rights. The parties stipulate to continue this matter from July 24, 2012 to August 28, 2012 at  
21 2:30 p.m. in order to provide sufficient time for the competency exam to be completed. The  
22 parties also agree that pursuant to 18 U.S.C. § 3161(h)(1)(A), the time between July 24, 2012 and  
23 August 28, 2012 should be excluded under the Speedy Trial Act.

24 //

25 //

26 //

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

SO STIPULATED.

MELINDA HAAG  
United States Attorney

Dated: 7/11/12


/s/  
J. MARK KANG  
Special Assistant United States Attorney

Dated: 7/11/12

/s/  
SHAWN HALBERT  
Assistant Federal Public Defender  
Attorney for Pablo Perez-Anguiano

SO ORDERED.

DATED: 7/11/12

  
THE HONORABLE RICHARD SEEBORG  
United States District Court Judge